IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY**

**and**
**THE HON'BLE MR JUSTICE RAMESH RANGANATHAN**

**WRIT PETITION NO : 10066 of 2005**

Between:

M/s Shiva Polishing Slab Industries, Rep. by its Proprietor Y. Chandrasekar Reddy, S/o Y. Venkata Reddy, R/o Nannur (V) & Post, Orvakal Mandal, Kurnool District.

**..... PETITIONER**

AND

1. The Commissioner of Commercial Taxes, Government of Andhra Pradesh, Hyderabad.
2 The Deputy Commercial Tax Officer, Betamcherla, Kurnool District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction, more Specifically in the nature of writ of Mandamus or any other appropriate direction declaring the action of the respondent No.2 in demanding the payment of tax for the year 1995-96 and 1996-97 vide, RC.No. 57/99 A dated 16-3-2005 covered by tax holiday by ignoring the final Eligibility Certificate still in force is illegal, void and ultravires

in the interest of justice and equity.

**Counsel for the Petitioner:MS.NASEEB AFSHAN**

**Counsel for the Respondent Nos:1 & 2 SPECIAL GP FOR COMMERCIAL TAX**

**The Court at the admission stage made the following :**

**ORDER:** (per Sri B. Sudershan Reddy,J)

We have heard the learned counsel for the petitioner and perused the averments made in the affidavit filed in support of the writ petition.

The petitioner prays for issuance of a writ of mandamus declaring the action of the second respondent in demanding the payment of sales tax for the years 1995-96 and 1996-97 vide the impugned order dated 16-03-2005. That according to the petitioner, the amounts that are now demanded from the petitioner are covered by the tax holiday as is evident by the final Eligibility Certificate issued by the Industries Department.

In our considered opinion, this writ petition is misconceived for the simple reason that the competent authority in exercise of the powers under the provisions of the Act and the Rules made there under admittedly passed the assessment orders for the years 1995-96 and 1996-97 and determined the tax liability of the petitioner and on failure of payment, the second respondent issued the demand notice. We cannot quash the demand notice without adjudicating as to the validity of the assessment orders passed by the competent authority. We cannot go into the validity of the assessment orders passed for the years 1995-1996 and 1996-1997 in this writ petition. In fact, the orders of assessment as such are not challenged in this writ petition. In the

circumstances, no relief can be granted to the petitioner in this writ petition.

However, the remedy of the petitioner to challenge the validity of the assessment orders for the years 1995-1996 and 1996-1997 is left open. It is needless to observe that if the petitioner avails any remedy available to it in law challenging the validity of the assessment orders, the same may have to be considered on its own merit uninfluenced by the dismissal of this writ petition.

The writ petition shall accordingly stand dismissed. No order as to costs.

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B. SUDERSHAN REDDY,J

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RAMESH RANGANATHAN,J

08-06-2005

sj/msv

To

1. The Commissioner of Commercial Taxes, Government of

Andhra Pradesh, Hyderabad.

2 The Deputy Commercial Tax Officer, Betamcherla, Kurnool

District.

3. Two CCs to the Special Government Pleader for Commercial Tax, High Court Building, Hyderabad. (OUT)

4. Two C.D. copies.